

REPORT

Of the Engineer of the

IOWA WESTERN RAILROAD:

(MADE NOV. 27, 1851,)

WITH AN APPENDIX

CONTAINING

THE GENERAL INCORPORATION ACT OF IOWA, THE ARTICLES
OF ASSOCIATION OF THE I. W. R. R. COMPANY, THE
ACT OF THE GEN. ASSEMBLY GRANTING THE
RIGHT OF WAY, &c. &c.

Published by order of the Board of Directors.

MUSCATINE:
PRINTED BY H. D. LA. COSSITT, AT THE ENQUIRER BOOK & JOB OFFICE:
1851.

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REPORT

OF THE ENGINEER OF THE IOWA WESTERN RAIL ROAD:

To the President and Directors

of the Iowa Western Rail Road Co.:

GENTLEMEN:—The Surveys already made for the purpose of ascertaining a route for that portion of your Road between Oskaloosa and Muscatine, with an extension to Davenport, enable me to lay before you the following results:

The principal topographical features of the country, embracing the line of surveys, may be briefly noticed as follows—

1st. Between Davenport and Muscatine the river bluffs recede sufficiently to allow ample way for a road along the bottom, with the exception of a single point of about half a mile, near Wyoming.

2d. The general elevation of the "Plateau" traversed by the line, is shown by the altitude of various points referred to high water mark at Muscatine—that of the dividing ridge between the Mississippi and Cedar rivers being 212 feet; Washington, 206 feet; Sigourney, 257 feet; and Oskaloosa, 310 feet.

3d. The depressions formed by the channels through which the principal drainage of the country is effected, are: The valley of the Cedar, at an altitude of 61 feet; the valley of the Iowa at altitudes of 64 and 32 feet, respectively at two different points; of North Skunk, at 170 feet, and South Skunk at 154 feet. Starting from the Mississippi, these elevations have to be overcome, and the valleys crossed—but by conforming to the general undulations, a very even surface is presented, and the surveys show that there are ample facilities for overcoming the acclivities and declivities, with very moderate grades.

The location of the important points along the line, is shown by accompanying maps, copied from Government surveys, from which it will be seen that Davenport is situated near the South boundary of Township 78, North, of Range 3 East, and Muscatine near the South boundary of Township 77, North, Range 2 West, and Oskaloosa in Township 75, North, Range 16 West. In view of the final extension of your Road to the Missouri River, I will also mention in this connection that the Surveys of the public lands, executed this season, establish the fact that Kaneshville is situated near the South boundary of Township 75, North, Range 44 West, and Council Bluffs (or Trader's Point) in Township 74, North, Range 44 West.

Referring to the map to elucidate the description, I shall proceed to notice the routes surveyed:

The line commences at the southern limit of the town of Davenport, and follows the course of the Mississippi under the bluff to Muscatine, with the

exception before mentioned, where the bluff strikes the river, where a cut of half a mile will be necessary. The ground is remarkably favorable, on this division, and the grades for all practical purposes may be considered as equivalent to level.

From Muscatine to Washington two routes have been surveyed. The southern, after leaving the town, crosses the Island and Muscatine Slough, and strikes the bluff at the mouth of Whiskey Hollow, and ascending by this ravine, passes the summit near A. Hurst's, eleven miles from Muscatine, and crosses the Iowa river, near the south boundary of Township 75, North, Range 4 West, being the nearest suitable crossing, to a direct line, to be found below the junction of the Iowa and Cedar. A bridge of 823 feet will be required at this point. The embankment on the East side of the river, although on a solid surface, will need some facing with stone, or equivalent protection, to secure against such extreme high water as prevailed during the past season. After ascending by a hollow from the Iowa, the route continues through Columbus City, on a pretty direct course and good ground to Washington, distant 39.31 miles from Muscatine.

The Northern route, after leaving Muscatine, ascends by Kincaid's branch, and passing the summit at a distance of about seven miles, strikes the Cedar river near the line between sections two and eleven, in Township 76, North, Range 4 West, where a bridge of 729 feet will be required, thence passing along the foot of the heights between the forks, crosses the Iowa river in section six, Township 76, North, Range 5 West. The river is here 238 feet in width. Protection for the embankments at these two crossings has also been estimated for. After leaving the Iowa, the route is along the dividing ridge between Goose and Davis creeks to a point about seven miles from the river, whence the course is nearly direct to Washington, distant 38.10 miles from Muscatine. The highest grades on the two routes, for this division, are respectively in ascending westwardly from the Iowa river, being at the rate of 38 feet per mile on the southern, and 39.60 feet on the northern route. These are also the highest grades required on any part of the entire line. The estimates for the cost are also in favor of the Northern route, but as other considerations than merely the cost and mechanical effect may sometimes very properly be taken into account, in deciding upon a location, the estimates for both routes are given in detail. From Washington the route bears to the North to avoid the deep valleys of the numerous small streams tributary to the Skunk, until reaching a point near the N. W. corner of Township 75, North, Range 9 West, from which the course is pretty direct to Sigourney, 27.89 miles from Washington.

From Sigourney the general direction is West, until striking the North Skunk, about one-quarter of a mile from the N. W. corner of Township 75, North, Range 13 West, where a bridge of 100 feet will be required. From this point the route curves to the South to ascend the divide, which is passed at Rose Hill, and the South Skunk crossed near its intersection with the West line of Township 75, North, Range 14 West; thence bearing Westwardly it reaches Oskaloosa, after running due West for several miles. The distance from Sigourney to Oskaloosa by the route is 23.97 miles. From Muscatine to Oskaloosa 89.96 miles, and from Davenport 115.66 miles.

As before stated, should the Northern route be adopted, the highest grade on the line will be 39.60 feet per mile, and this for only a short distance. All other grades will be very moderate, and no abrupt curvature will be necessary on any part of the line.

ESTIMATE OF THE COST OF GRADUATION, MASONRY, BRIDGING, &c.

MUSCATINE DIVISION.

FROM DAVENPORT TO MUSCATINE, (25.7 MILES.)

5½ miles grubbing and clearing, at \$300 P mile.....	\$1,650 00	
382,930 cubic yards, excavation and embankment, at		
12 cents per yard.....	45,951 60	
Extra for rock excavation.....	3,285 00	
270 perches masonry in bridges, at \$2 50 P perch....	675 00	
2,768 perches masonry in culverts and small bridges,		
at \$1 50 P perch.....	4,152 00	
Superstructure for bridges.....	4,630 00	
Total.....		\$69,313 60
Average per mile.....	\$2,318 00	

WASHINGTON DIVISION, (SOUTHERN ROUTE.)

FROM MUSCATINE TO WASHINGTON, (39.31 MILES.)

5½ miles grubbing and clearing, at \$300 00 P mile....	\$1,575 00	
992,639 cubic yards excavation and embankment, at		
14 cents P cubic yard.....	131,769 16	
3,000 perches masonry in bridges, at \$3 50 P perch....	10,500 00	
2,181 perches masonry in culverts and small bridges,		
at \$1 50 P perch.....	3,276 00	
4,959 perches revetment wall, at \$1 25 P perch.....	6,236 25	
Superstructure of bridges.....	17,990 00	
For foundations.....	2,100 00	
Total.....		\$176,446 71
Average per mile.....	\$4,483 59	

WASHINGTON DIVISION, (NORTHERN ROUTE.)

FROM MUSCATINE TO WASHINGTON, (33.10 MILES.)

7½ miles grubbing and clearing, at \$300 00 P mile....	\$2,325 00	
701,040 cubic yards excavation and embankment, at		
14 cents P cubic yard.....	98,145 60	
2,120 perches masonry in bridges, at \$3 50 P perch....	8,470 00	
2,528 perches masonry in culverts and small bridges,		
at \$1 50 cents P perch.....	3,792 00	
4,250 perches revetment wall, at \$1 25 P perch.....	5,312 50	
Superstructure of bridges.....	21,293 00	
For foundations.....	2,500 00	
Total.....		\$115,835 10
Average per mile.....	\$3,792 70	

SIGOURNEY DIVISION.

FROM WASHINGTON TO SIGOURNEY, (27.89 MILES.)

2 miles grubbing and clearing, at \$300 00 $\text{\textcircled{P}}$ mile.....	\$600 000	
602,925 cubic yards excavation and embankment, at 12 cents $\text{\textcircled{P}}$ cubic yard.....	64,511 00	
2,780 perches masonry in culverts and bridges, at \$1 50 $\text{\textcircled{P}}$ perch.....	4,170 00	
Superstructure of bridges.....	1,560 00	
Total.....		\$70,841 00
Average per mile.....	\$2,540 00	

OSKALOOSA DIVISION.

FROM SIGOURNEY TO OSKALOOSA, (23.97 MILES.)

10 miles grubbing and clearing, at \$300 00 $\text{\textcircled{P}}$ mile.....	\$3,000 00	
502,995 cubic yards excavation and embankment, at 12 cents $\text{\textcircled{P}}$ cubic yard.....	96,239 40	
400 perches masonry for bridges, at \$2 50 $\text{\textcircled{P}}$ perch....	1,000 00	
1,506 perches masonry in culverts and small bridges, at \$1 50 $\text{\textcircled{P}}$ perch.....	2,259 00	
3,368 perches revetment wall, at \$1 00 $\text{\textcircled{P}}$ perch.....	3,368 00	
Superstructure of bridges.....	4,910 00	
Total.....		\$110,776 40
Average per mile.....	\$4,621 46	

Adopting the Northern Route, the following is a summary of the foregoing estimates:

Muscatine Division.....	\$60,243 60	
Washington ".....	141,835 10	
Sigourney ".....	70,841 00	
Oskaloosa ".....	110,776 40	
Total.....		\$383,796 10
Add 10 per cent. for Agencies, Engineering and Contingencies,...		38,979 61
Total.....		\$422,175 71
Average per mile for whole dist., 115.66 miles, ..	\$3,650 14	

The estimate for one mile of superstructure, with a T rail of 60 lbs to the yard, laid in the most substantial manner, is as follows:

2,112 cross-ties, at 30 cents $\text{\textcircled{P}}$ foot.....	\$633 60	
94 tons iron rail, at \$18 00 $\text{\textcircled{P}}$ ton.....	4,512 00	
Joint fastenings and spikes.....	334 00	
Laying track.....	520 40	
Total.....		\$6,000 00
Which for 115.66 miles, gives a total of.....	\$693,960 00	
Add cost of grading as above.....	422,175 71	
And the aggregate is.....		\$1,116,135 71
Or an average of \$9,650 14 per mile, for the road with the track laid.		

RECAPITULATION,

Showing the average per mile and total cost of each Division with track laid:

	MILES.	AVERAGE PER MILE.	TOTAL.
Muscatine Division.....	25.7	\$8,348 00	214,543 60
Washington ".....	38.1	9,722 70	370,434 87
Sigourney ".....	27.89	8,540 00	238,180 60
Oskaloosa ".....	23.97	10,621 46	254,596 40

The probable cost of buildings and equipments for the Road from Davenport to Oskaloosa, is estimated as follows, viz :

For buildings and fixtures.....	\$25,000 00	
For Engines and Cars of various kinds.....	95,000 00	
Total.....		\$120,000 00

This is for the opening business, and on the supposition that the entire Road could be brought into use at once. A greater proportional amount of equipment would of course be necessary for service on only a part of the line.

No allowance is here made for extra track, as it is calculated that the line will be shortened in the location as hereafter suggested, sufficiently to balance that item.

The cost of land is not included in the above estimates, because it is impossible to arrive at any certainty upon that subject until after the definite location of the Road. It is thought, however, that most of the land required for the legitimate uses of the Road can be obtained at a mere nominal cost, and all necessary for the right of way gratuitously.

Although the estimates are made for the line as surveyed, it is believed that important modifications can be made so as to shorten the route without increasing the cost, or diminishing the efficiency of the Road, I may mention in particular that by commencing at a point about seven miles West of the Iowa river, on the Northern route, as above described, thence following a divide Westward, passing about six miles North of Washington, and intersecting the present survey about thirteen miles West of that town, the line would probably be shortened about three miles, and the ground be equally as good, if not more favorable.

The survey of the Northern Route between Muscatine and Washington was commenced with a view to this connection, but circumstances having, prevented as yet the completion of the entire system of surveys originally contemplated, this was left unfinished. But considering Washington as at least a desirable, if not actually fixed point of the line, another modification is considered practicable, judging from the results of reconnoissances, made during the surveys, which will still retain that town in the line, viz : commencing at the summit near the head of Kincaid's branch, thence running South of the present line, and crossing the Cedar river near the line of Sections 28 and 29, in Townships 76, North, Range 4 West, and the Iowa near its intersection with the Northern boundary of Township 75, North, of Range 5 West, thence on a direct course to Washington, saving probably two miles in the distance.

An examination was also made of this route after it was ascertained that it could not be surveyed in time to embody the results in this Report, as it is considered in every respect as favorable as that surveyed. Before the final location of this line, these Routes, with at least one or more between Washington and Oskaloosa, should be surveyed.

There was a time in the history of Rail-road improvements in our country, when an Engineer in reporting upon this subject was expected to give a general dissertation upon the science of construction and the practical effects of such works upon the business and prosperity of the country.

This was all very proper when such improvements were in their infancy; and our Engineers had to be sent to Europe to inform themselves upon the subject. But some twenty years have elapsed since the construction of these works commenced extending in our own country—and their practical effects are now to be witnessed in almost every State in the Union, and their utility is recognized and acknowledged by all. The construction, too, has been improved by experience, and become so well understood, that it may now be considered simply an art. Science is almost entirely restricted to their proper location. I deem any remarks upon that subject, therefore, unnecessary, in addressing the intelligent gentlemen composing your Board.

Another fashion has been to accompany such reports with elaborate statistics purporting to demonstrate the prospective business and profits of the Road; but these statements have so often proved extravagant and fallacious, that they are received at the present time with great caution, if not absolute distrust.

Waiving, therefore, for the present any attempt to show a profitable opening business for your Road, it may safely be assumed that it would soon become one of the most profitable in the country; for it is worthy of remark that calculations based upon Eastern data have generally fallen below the truth, when applied to favorable routes, through the fertile districts of the West; and in this respect your Road will possess superior advantages.

Between Muscatine and Oskaloosa a location is practicable which shall not deviate more than a mile from a direct course, nor exceed by more than two miles an air line between those points, and which at the very moderate costs above estimated, will favorably compare with any in the country for mechanical efficiency.

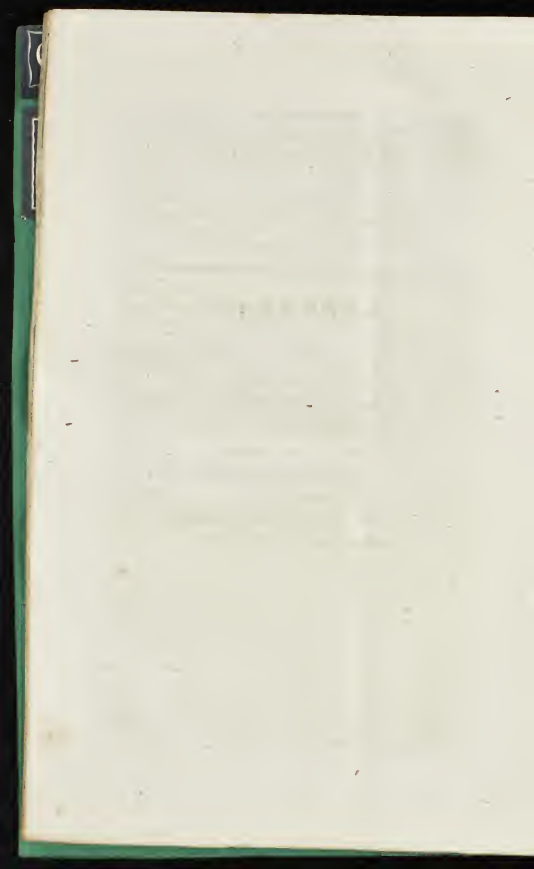
The field operations were conducted, and the map, profile, and other drawings executed in a very satisfactory manner, by Col. P. R. SKINNER, assisted by Col. H. Q. JENNISON, and J. A. PARVIN, Esq., Engineers in the service of the Company.

Respectfully submitted,

THO. J. McKEAN.

APPENDIX:

1. LAW OF INCORPORATIONS;
2. ARTICLES OF ASSOCIATION OF COMPANY;
3. ACT GRANTING RIGHT OF WAY;
4. SECTIONS OF CITY CHARTER;
5. CITY ORDINANCE AUTHORIZING A LOAN;
AND RETURN;
6. ACTION OF CITY COUNCIL THEREON;
7. SECTIONS OF CODE OF IOWA.



APPENDIX.

LAWS OF IOWA — SESSION OF 1846—47.

CHAPTER LXXXI.

An Act to authorize General Incorporations.

§ 1. Be it enacted by the General Assembly of the State of Iowa, That any number of persons may hereafter incorporate themselves for the transaction of any business which may be the lawful subject of a general partnership, including the establishment of ferries, the construction of rail-roads, and other works of internal improvement.

§ 2. They may make such regulations as they please in relation to the management of their business, not incompatible with an honest and legal purpose.

§ 3. They may render their individual interest in the corporation transferable.

§ 4. The death of any of its members shall not terminate the corporation.

§ 5. They may sue and be sued in their corporate name, and may have a common seal.

§ 6. They may exempt private property from corporate debts, and may hold, buy and sell real estate: PROVIDED, The requisitions of this act are substantially complied with.

§ 7. Previous to commencing business they shall adopt articles of incorporation, which shall be recorded in the office of the recorder of deeds in the county where the principal place of business is; and, further, all corporations for the purpose of constructing rail-roads, canals, and other works of internal improvement, shall file a certified copy of their articles of association in the office of the secretary of State.

§ 8. A notice shall be published four weeks in succession in some newspaper in such county, or, if no newspaper be printed therein, then such publication shall be made in some newspaper as convenient as practicable thereto.

§ 9. A failure to comply with either of the requisitions contained in the two preceding sections, shall render their individual property liable on all contracts.

§ 10. The notice required by the eighth section shall contain:

FIRST.—The name of the corporation, and the principal places of transacting business.

SECOND.—The general nature of the business to be transacted

THIRD.—The amount of capital stock incorporated.

FOURTH.—The amount of capital stock actually paid in, and the times and conditions on which the remainder is to be paid.

FIFTH.—The time of the commencement and termination of the association.
 SIXTH.—The officers of the company, and the time of holding elections.

§ 11. A like publication and recording shall be made upon renewal, or any essential alteration of the articles of incorporation.

§ 12. The corporation shall not be permitted to continue for more than twenty years at once, but may be renewed for a like time, by the unanimous consent of the corporators.

§ 13. The corporation cannot be voluntarily dissolved previous to the period first fixed upon, without giving the same previous newspaper publication of its dissolution, as is required by section eight in its creation.

§ 14. Intentional fraud in the transaction of the affairs of the company, shall subject those guilty thereof to fine and imprisonment, or both, at the discretion of the court. Any person who shall receive injury from such fraud, may also recover damages therefor in a civil suit against such corporation.

§ 15. The payment of dividends which shall leave insufficient funds to meet the liabilities of the company, shall be deemed fraud.

§ 16. A failure to comply with the foregoing requisitions, or a substantial departure from the articles of association, shall render the individual property of the members of the company liable for the corporate debts.

§ 17. Either such departure, or the practice of fraud by the company, shall cause a forfeiture of all of their privileges under this act, and the courts may proceed to wind up their business, as in cases of special corporations that have violated their charters.

§ 18. Legal process may be served upon any officer of the company, and, if there be no officers, then upon any member thereof. This shall be deemed sufficient service upon the company.

§ 19. Whenever an execution shall be issued against the company, and, after reasonable inquiries, no corporate property can be found sufficient to satisfy the same, it shall be lawful to serve a notice upon the acting manager of the business of the company, or, if none such can be found, then upon any member thereof, requiring them to appear before the District Court of the county where the judgment was obtained, and show cause why the individual property of the members of the company should not be made liable, and, if no sufficient cause be shown, then the court shall order the execution to be levied upon such property.

§ 20. Property seized by virtue of such execution shall only be released from the effects of the law by either:

FIRST.—Pointing out sufficient company property whereon to levy; in which case the costs thus far made shall be added to the amount to be collected from the company by the execution—or,

SECOND.—By making and filing in the clerk's office an affidavit that the funds of the company are exhausted, and by informing the officer who made the levy on the same. In this case the officer shall forthwith make return of that fact to the court from whence the execution was issued. He shall thereupon suspend all further proceedings under the execution, and the property levied upon shall be treated as though held by virtue of a writ of attachment, until further order of the court.

§ 21. The Plaintiff may direct a release of the property thus taken in execution, or he may appear before the District Court at the return day of the

execution, or as early as practicable afterwards, and, in answer to a rule to show cause why the property should not be released, may allege such matters as will render the private property of the members of the company liable. Issue shall thereupon be joined, to be tried by a jury.

§ 22. Upon such trial it shall be necessary for the company to exhibit their books and papers, if required, and explain by those, or by some other means, the fairness and regularity of their business transactions. The judgment of the court shall be in accordance with the finding of the jury.

§ 33. Whenever the private property of one member of the company is thus held, he shall have a claim for indemnity against the company.

§ 24. Any of the members may sue the company at law for a private demand against the same.

§ 25. All corporations whose charter shall expire by their own limitations, or shall be annulled by the forfeiture or otherwise, shall nevertheless be continued bodies corporate for the term of ——— years after the time when they would have been dissolved, for the purpose of prosecuting and defending suits by or against them, and of enabling them gradually to settle and close their concerns, to dispose of and convey their property, and to divide their capital stock, but not for the purpose of continuing the business for which such corporation or corporations have been, or may be, incorporated.

§ 26. The private property of each stockholder shall be liable for all the debts of the corporation, to the amount of stock owned by said stockholder at the time when the debts were contracted, and also to the amount of stock owned by said stockholder at any subsequent time.

APPROVED, February 22nd, 1847.

Articles of Incorporation of the Iowa Western Rail Road Company.

At a meeting of delegates from counties in this State, holden at Muscatine in the county of Muscatine, on the 27th day of December, A. D. 1850, pursuant to notice, it was, amongst other things, agreed that a corporation be organized in accordance with an act of the Legislature of Iowa, entitled "An act to authorize general incorporations," approved February 22d, 1847, for the purpose of constructing a Railroad from Davenport, or near there, or from such other point on the Mississippi river as the Legislature of Iowa may designate, by the way of Muscatine in Muscatine County, through the counties of Louisa, Washington, Keokuk, Mahaska, Marion, Warren, and Madison, to Council Bluffs, or such point as the Legislature may designate,

§ 1. This Corporation shall be known and named "The Iowa Western Railroad Company," and by such name may sue and be sued, contract and be contracted with, purchase and sell real estate, so far as such purchase and sale may be subservient to the main purpose of the formation of this Corporation. This Corporation shall have a common seal, and continue forever unless limited by law.

§ 2. The members of this Corporation shall be such natural or artificial persons or assigns, as shall subscribe for at least one share of stock; and the amount of stock to be created by this Corporation shall be one million of dollars, and may be increased from time to time, as emergencies may demand.— One share of stock will be fifty dollars.

§ 3. Books for subscription of stock shall be opened this day, and when one hundred shares are taken, the stockholders shall assemble at the court house in Muscatine, at which time one per centum on each share shall be paid to the presiding officer of the organizing meeting, to be by him paid to the treasurer of the Corporation, at such meeting to be chosen.

§ 4. The Share holders having made payment as aforesaid, shall forthwith elect a president, and ten directors from among the share holders, who shall hold their offices respectively for one year, and until their successors are duly elected and qualified, which officers shall be styled "the Board of Directors of the Iowa Western Rail Road Company," which Board shall have the management of the Business of the corporation, with power to appoint or employ surveyors, clerks and other servants, from time to time, as the Board may see fit, and to take such bonds or other securities for the faithful performance of duty as may be deemed necessary, and to make all necessary rules not inconsistent with these articles.

§ 5. Whereas, it is expected that the Congress of the U. S. will grant to the State of Iowa some portion of the public domain for the purpose of aiding in the construction of Railroads, and that the State may be disposed to impose upon this corporation the duty of complying with such conditions in regard to the acceptance of the grant as Congress may prescribe, therefore the Board of Directors shall have power to negotiate with the State in regard to such grant and the performance of such duty and conditions in manner and form as the Board may deem proper, provided that the line of said road shall not materially deviate from that contemplated in this organization.

§ 6. No money shall be drawn from the treasurer but by the order of the Board, designating the purpose for which drawn.

§ 7. A majority of the Board shall be a quorum to transact all business of the corporation except to borrow money—for that purpose a full Board shall be necessary and no loan shall be contracted without the concurrence of seven of the Board; and should a loan be agreed on, the Board may give such guaranties for the reimbursement of principal and interest as may be deemed necessary for the good of the corporation.

§ 8. Installments on stock shall be paid at such time as the Board may order provided not more than ten per centum on the whole amount shall demandable the first year, ending on the first day of January, 1852; and twenty per centum per annum on the whole amount taken during each subsequent year. On default of any subscriber for stock to make payment, as may be required by publication of the order requiring the same in three newspapers nearest the line of the road for four successive weeks, the amount required may be recovered in an action of law, in the name of the corporation. No other evidence shall be necessary to a recovery than a party's signature to the stock book, and the notice of requisition in manner and form as is herein provided. But this shall not preclude any defence the party defending may have. As another

remedy against non paying stockholders the Board may after notice as aforesaid, declare the stock and all payments thereon previously made, forfeited to the corporation.

§ 9. There shall be an annual meeting of the stockholders on the first Wednesdays after the first Mondays of January, at such place as the stockholders at the next preceeding annual meeting shall order, except that the meeting adopting these articles shall be deemed the first annual meeting, instead of January, 1851.

§ 10. The Board of Directors may call special meetings of stockholders in the same manner and form as they may make requisitions for the payment of stock. On the questions arising before a meeting of stockholders each share shall be entitled to one vote, which may be given in person or by proxy.

§ 11. No stockholder shall be liable to any contribution or assessment above the amount of stock subscribed, either for the payment of debts or to increase the general fund

§ 12. These articles may be amended at any meeting of the stock-holders.

§ 13. The town of Muscatine, in Muscatine county, shall be the place for the transaction of business.

Hon. S. WHICHER, offered the following resolution:

Resolved, That the articles of association adopted at this convention be authenticated by the signature of the President, Vice President, and Secretaries; the original whereof after being recorded in the office of the Recorder of deeds of Muscatine county be deposited in the office of the Secretary of State.

LAWS OF IOWA—SESSION OF 1850—51.

CHAPTER LVII.

Right of Way

AN ACT to grant the right of way to the "Iowa Western Rail-road Company."

SEC 1. Be it enacted by the General Assembly of the State of Iowa, That there is hereby granted to the Iowa Western Rail-road Company, and to their Representatives, the right of way, one hundred feet wide, for their Rail-road from Davenport, in Scott county, by the way of Muscatine, in Muscatine county, to Oskaloosa, in Mahaska county.

§ 2. That in obtaining the right of way for their said Rail-road, over and across the lands of individual proprietors, the said company and their representatives may proceed in the manner following: that is to say, the grant of such right of way from individual owners resident of the county in which the land is situated, or who have agents or guardians resident as aforesaid, may be obtained in writing over the hand and seal of such proprietor, or of his agent or guardian, resident as aforesaid, and neither acknowledgment nor recording shall be necessary to the validity of such grant: and if the owner of any land over which said road may be located, shall refuse to grant the right of way

for such road through his premises, notice may be given by either party, to the sheriff of the county in which said land may be situated, whose duty it shall be, within ten days thereafter, to summon eighteen free-holders of his county, who are not interested in a like question, to appear on the premises, and he shall give the parties notice of the time and place of meeting. When so assembled, if the said free-holders do not all appear, the sheriff shall summon others to make up the number, the parties shall then proceed, commencing with the company, alternately to strike off the names so returned, until but six of said freeholders are left, who being sworn, shall proceed to inspect the premises, and assess the damages, if any, which such owner will sustain by the construction of said road, and make return thereof to the clerk of the District Court for said county, and the same shall be filed by him, and if the company shall at any time before they actually enter upon said lands, for the purpose of constructing said road, pay to said clerk or proprietor the sum so assessed they shall be fully authorized to construct and maintain said road over and across said premises, doing no unnecessary injury to said lands; *Provided*, that either party dissatisfied with the decision of said free-holders, shall have the right of appeal to the District Court wherein said land is situated, at any time within thirty days after such decision, but such appeal shall not delay the prosecution of work upon said road; *Provided*, the company shall first have paid or tendered the amount adjudged by said free-holders; and in no case shall the company be liable for costs on appeal, unless the appellant recover a greater amount of damages than first awarded, but the company shall in all cases pay costs made previously to an appeal.

§ 3. That if upon the location of said road, it shall be found to run through the lands of any non-resident proprietor, the said company or their representatives, shall give four weeks notice to each proprietor, if known, and if not known, by description of such lands by publication in some newspaper printed in Muscatine and Oskaloosa, that said road has been located through his lands, and if such proprietors shall not apply to such sheriff within thirty days thereafter, to have their damages assessed in the mode prescribed in the preceding section, said company, or their representatives, shall proceed in the same manner to have the damages assessed as in section second, subject to the same right of appeal; and upon the payment of the damages so assessed, the said company thereby shall acquire all rights, privileges and immunities mentioned in said second section.

§ 4. This act to be in force from and after its publication according to law.
Approved, February 5th, 1851.

Extracts from the Charter of the City of Muscatine.

LAWS OF IOWA—SESSION OF 1850—51.

AN ACT TO INCORPORATE THE CITY OF MUSCATINE.

§ 1. Be it enacted by the General Assembly of the State of Iowa, That the town of Muscatine, (formerly the town of Bloomington,) in the county of Muscatine, is hereby created a city by the name of the "CITY OF MUSCATINE."

§ 2. The said city is made a body corporate, and is invested with all the powers and attributes of a municipal corporation.

§ 4 The said city is hereby divided into three Wards as follows: That part of the city which lies south and west of the middle of Chestnut street is the First Ward; that part lying between the middle of Chestnut street and the middle of Walnut street, is the Second Ward; that part lying north and east of the middle of Walnut street, is the Third Ward; but the City Council may create new wards and change the limits of those now or hereafter established.

§ 8. The officers of the city shall be a Mayor, two Aldermen from each Ward, a Marshal, Recorder, Treasurer, Assessor, and Wharfmaster, for the choice of whom an election shall be holden annually on the first Monday in March, and each of whom will hold his office for the term of one year (except in the case of the Aldermen as heretofore provided, and until their successors are elected and qualified.

§ 10. It is the duty of the Mayor to see that the laws and ordinances of the city are executed, and their violations punished—to superintend and direct the official conduct of the subordinate officers—to keep the seal of the city, and to sign and seal all commissions, licenses and permits granted by the City Council, and perform such duties and exercise such powers as pertain to the office of Mayor of the city, and such as may be granted by the ordinances of the City Council, consistent with the law.

§ 13. He shall be the presiding officer of the City Council when present, and shall give the casting vote when there is a tie. In his absence the Council may appoint a President for the time being.

§ 16. The legislative authority of the city is vested in a City Council, consisting of the Mayor and a Board of Aldermen, composed of two from each Ward of the city.

§ 19. The Council is invested with the following powers :

CLAUSE FIFTEENTH.—To borrow money for any object in its discretion, if at a regular notified meeting, under a notice of, stating distinctly the nature and object of the loan and the amount thereof, as nearly as practicable, the citizens determine in favor of the loan by a majority of two-thirds of the votes given at the election.

§ 30. The City Council is further authorized to levy and collect taxes not exceeding one half of one per cent on the value of all the property within the city which is liable to State and county taxes ; including improvements on real property. The Council may also levy a tax on dogs or may prohibit their being kept in the city.

§. 31. The latest county assessment roll shall form the basis of the assessment, but the city Assessor may add thereto any property omitted, assessing the same himself.

ORDINANCES OF THE CITY OF MUSCATINE.

[NUMBER SIXTEEN.]

AN ORDINANCE PROVIDING FOR AN ELECTION ON PROPOSITIONS TO BORROW MONEY ON THE CREDIT OF THE CITY :

SEC. 1. Be it ordained by the City Council of the city of Muscatine, That there shall be held, on the third Monday in May, 1851, an election of the qualified voters of the city of Muscatine, by Wards—the polls to be opened at 9 o'clock A. M., and to close at 4 o'clock P. M. of said day—in the First Ward at the school house of District No. 2, in the Second Ward at the Mayor's office, and in the Third Ward at the office of the County Commissioners.

§ 2. The election shall be upon the following propositions, (the poll books shall represent the vote for and the vote against the same) to wit :

First Proposition—to borrow, for a term of years not less than ten, on the bonds of the city, at a rate of interest not higher than 8 per cent. per annum, the sum of forty-five thousand dollars, to be subscribed as stock in the name of the city, to the capital stock of the "Iowa Western Rail-road Company," subject to the same demands and payments as other stock : *Provided*, That the City Council may in their discretion, advance the whole or any part of the amount so borrowed and subscribed, on condition that the Directors of said Company will expend the same in constructing upon the line of their said Railroad, a good graded road, to be used as such until said Company shall be able to construct a railroad thereon ; the tolls to be receivable by the city in

the same proportion as the amount of city stock paid in shall exceed the amount paid in and expended of other stock subscribed.

Second—To borrow in like manner at the same maximum rate of interest Five Thousand Dollars, to be expended under the direction of the City Council in the improvement of the streets, alleys, or wharfs of the city.

§ 3. The vote shall be by ballot, plainly written or printed, with the words "For" or "Against the Loan."

§ 4. The following persons are appointed and may be qualified as judges, two of whom shall also perform the duties of clerks of said election—

First Ward—A. Parcell, M. Couch, and H. O'Connor ;

Second Ward—D. C. Cloud, George Porter, and Suel Foster ;

Third Ward—S. Bamford, C. P. Hastings, and L. S. Goldsbury ;

And the said judges are hereby required to make proper return of the poll books and official abstracts of the said election to the Mayor, within two days thereafter—and the Mayor and Council may open and canvass said returns, and declare the result. If the persons herein named as judges should be unable to serve, or any one of them, then the vacancies may be filled as provided for in township elections.

§ 5. The expenses of the election as provided for, shall be paid out of the City Treasury.

§ 6. This ordinance shall be published in the Muscatine Journal, regularly every week until the day of said election.

Z. WASHBURN, Mayor.

Attest THOMAS CRANDOL, Recorder.

Passed May 1, 1851.

Returns of the Election on the adoption of the foregoing Ordinance.

CITY OF MUSCATINE—Ss:

Be it remembered, that on the Records of the City of Muscatine, at a meeting of the City Council, of May 23d, A. D. 1851, the following entries are made, viz :

"Mr. IRWIN moved the suspension of the Rules of Order, for the purpose of opening the Returns of the Election ; carried in the affirmative.

"On motion of Mr. DOUGHERTY, the Returns of the Election relative to the Loan, were opened and examined—and the vote stood as follows :

	FOR THE LOAN,	AGAINST THE LOAN.
1st Ward,.....	80	13
2d "	92	35
3d "	60	26
	<hr/> 232 votes,	<hr/> 74 votes.

"Thus, as appears, the loan carried by a majority of 158 votes,

"Mr. FISHER moved that the Recorder record the returns of the above Election, which motion, was carried in the affirmative ; and accordingly the Returns of the Election are as appears above."

I hereby Certify that the above is a true copy of a part of the proceedings of said Meeting. Given under my hand, this 26th day of Dec., A. D. 1851.

THOMAS CRANDOL, Recorder.

Sections of the Code of Iowa.

TITLE 19—CHAPTER CX: (PAGE 270.)

1895. Public buildings owned by the State or any county, city, school district, or other civil corporation, and any other public property which is necessary and proper for carrying out the general purpose for which any such corporation is organized, are exempt from execution. The property of a private citizen can in no case be levied upon to pay the debt of a civil corporation.

1896. In case no property is found on which to levy which is not exempted by the last section, or if the judgment creditor elect not to issue execution against such corporation, he is entitled to the amount of his judgment and costs in the ordinary evidences of indebtedness issued by that corporation, and if the debtor corporation issues no script or evidences of debt, a tax must be levied as early as practicable sufficient to pay off the judgment with interest and costs.

1897. A failure on the part of the officers of the corporation to comply with the requirements of the last section renders them personally responsible for the debt.



IOWA WESTERN RAIL ROAD COMPANY.

Officers elect for 1853.

PRESIDENT:

STEPHEN WHICHER, *of Muscatine.*

SECRETARY.

WM. G. WOODWARD, *of Muscatine.*

TREASURER.

A. M'AULEY, *of Muscatine.*

DIRECTORS

J. C. GORDON, <i>Muscatine.</i>	C. CRAVEN, <i>Washington.</i>
J. BENNETT, "	DAVID ANDERSON, "
W. G. WOODWARD, "	NORMAN EVERSON, "
A. M'AULEY, "	J. A. CROOKHAM, <i>Mahaska.</i>
M. S. REEVES, <i>Keokuk.</i>	E. W. EASTMAN, "